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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/507,358

09/10/2004

Carl J. Holdampf

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7590

07/06/2005

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EXAMINER

BURNHAM, SARAH C

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/507,358

Applicant(s)

HOLDAMPF, CARL J.

Examiner

Sarah C. Burnham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2 and 7-15 is/are rejected.
- 7) ☒ Claim(s) 3-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/10/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgement is made of applicant's claim for domestic priority based on provisional application 60/365043 filed in the United States on March 14, 2002.

### ***Information Disclosure Statement***

2. The information disclosure statement filed on September 10, 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 7-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 refers to "said pin" in line 4. It is unclear whether said pin is referring to said lock pin introduced in claim 7 or said pivot pin introduced in claim 2. Clarification is

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requested. Claims 8 and 9 are rejected as being dependent upon a rejected base claim.

Claim 10 refers to "a pivot pin extending between a proximal end fixedly secured to one of said front and rear links and a distal end" in lines 13-14. It is unclear how a pivot pin can extend between two ends when the pin essentially defines a point and does not extend any distance. Clarification is requested.

Claim 12 recites a lower arm extending perpendicularly thereto. It is unclear to which element the lower arm extends perpendicularly. Is it perpendicular to the upper arm? As currently worded it sounds as if the lower arm extends perpendicularly from the front or rear link. This is not well understood since the lower arm is part of the front and rear link. Clarification is requested.

Claims 11 and 13-15 are rejected as being dependent upon a rejected base claim.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Austin (901,581). Austin discloses a seat assembly (Figure 1) for supporting an occupant above a floor (unlabeled) having a load floor (1) and a recess (2) extending there below,

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said seat assembly comprising: a seat cushion (13)(29)(27) extending between a seating surface (13) and a bottom surface (27); and a riser mechanism (unlabeled) extending between said bottom surface (27) of said seat cushion (13)(29)(27) and the floor (unlabeled) for allowing selective movement of said seat assembly between a seating position (Figure 1) to support the occupant above the load floor (1) and a stowed position (Figure 2) disposed within the recess (2) in the floor, said rise mechanism including a first link (40) extending between an upper first end (39) slidably coupled to said seat cushion (13)(27)(29) by way of slot (37) and a lower first end (45) pivotally coupled to the floor by way of pivot bar (44) and a second link (41) extending between an upper second end (unlabeled) pivotally coupled by way of link (46) to said seat cushion and a lower second end (48) slidably coupled to the floor by way of slide mechanism (3). It should be noted that while the lower first end (45) slides with respect to the floor, it also pivots given that in the folding motion, upper first end (39) slides to point (38).

With respect to claim 2, pivot bar (42) serves as a pivot pin pivotally coupling said first (40) and second (41) links to each other.

7. Claims 10-11 are rejected as best understood under 35 U.S.C. 102(b) as being anticipated by Martin et al. (4,957,321). Martin discloses a seat assembly (10) for supporting an occupant above a floor having a load floor, a recess below the load floor and an intermediate structure (30) extending there between, said seat assembly (10) comprising a seat cushion (14) extending between a seating surface (unlabeled) and a

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bottom surface (unlabeled); a seat back (18) pivotally coupled to said seat cushion by way of rod (44) and brackets (42) for movement between a support position (Figure 1) and a forwardly stowed position overlying said seat cushion (14) as depicted in Figure 4; a rise mechanism (46)(52) extending between said bottom surface of said seat cushion (14) and the floor for allowing selective movement of said seat assembly (10) between a seating position (Figure 2) to support the occupant above the floor and a stowed position (Figure 4) disposed within the recess in the floor, said rise mechanism operatively coupled to said seat back (18) and including front (46) and rear (52) links each pivotally coupled to said seat cushion (14) and the floor for allowing selective movement of said seat assembly (10) between said seating (Figure 2) and stowed (Figure 4) positions; a pivot pin (56) extending between a proximal end (unlabeled) (adjacent said seat cushion (14)) fixedly secured to said rear link (52) and a distal end (unlabeled) (near said floor), said pivot pin rotatably journaled to said seat cushion by way of slot (58) between said proximal and distal ends; a radial arm (60) extending radially outwardly from said pivot pin (56) and a radial link (62) extending between said seat back (18) and said radial arm (60) for pivoting said pivot pin (56) in response to movement of said seat back (18) between said support (Figure 2) and forwardly stowed (Figure 3) positions, respectively, to cause movement of said seat assembly (10) between said seating (Figure 2) and stowed (Figure 4) positions.

With respect to claim 11, said front and rear links (46) and (52) includes an upper arm, in the form of the upper half of the link, pivotally coupled at (48) and (56) respectively to the seat cushion (14).

***Allowable Subject Matter***

8. Claims 3-6 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 7-9 and 12-15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Jackson (254,325), Finch (841,135); Callaway (958,000); Herington (1,173,351); Musgrove (4,768,827); Huschle (1,158,223); Spindler (847,707); Takeda et al. (5,527,087); May (2,997,335); Ban et al. (5,839,773); Cannera et al. (5,195,795); Nichols (828,136) and Holdampf (WO 2004/037602).


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah C. Burnham whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SCB  
June 21, 2005

  
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